120 Fed. 893. Thus it seems plain that the instant case is limited in its effect to removing from the application of the general rule those holding companies organized primarily to evade the law.

CORPORATIONS—ISSUE OF STOCK FOR PATENTS UNDER MICHIGAN STATUTES. —The corporation was capitalized at $200,000 of which $100,000 was subscribed and $20,200 paid in cash and property. Also a contract was entered into by which $70,000 in stock was issued to A, B, & C in return for their *promise* to assign the American patent, when it should be issued, to an air compressor for automobiles. Later, when it was found impossible to obtain an American patent, the directors of the corporation voted to accept the foreign patents already held by A, B, & C in lieu of the American patent. *Held,* that this contract was in fraud of the other stockholders and that the stock issued to A, B, & C should be delivered up to be canceled, and they barred from sharing in distribution of corporate assets on dissolution. *In re American Air Compressor Co.,* (Mich. 1916), 160 N. W. 388.

Clause 6 of §2 of the General Incorporation Laws of Michigan (How. ANN. STAT. §9533) provides that 10% of the authorized capital stock of a corporation must be paid in cash or property, and in the latter case there must be affidavits by at least three of the incorporators averring actual transfer to the corporation, and swearing to the actual value. Here it seems that $70,000 in stock was to be issued on the mere *possibility* of a patent, and it is difficult to conceive how a patent right in futuro could have been transferred to the corporation or how it could have satisfied the further requirement of the statute that it be transferable by the corporation and subject to levy and execution by the corporate creditors. The matter was not brought up in the case and was not mentioned in the opinion, as it was not necessary to decide the case. This is regrettable. In many corporations a large amount of stock is issued for patent rights. The Michigan statute is in terms most rigid. The evaluation of a patent right, which must be sworn to, is a difficult matter at best, and it is of the greatest importance to a large number of honest and well-intentioned citizens that the courts define just what is required of incorporators who wish to issue shares for patent rights which are necessarily more or less conjectural in value.

EVIDENCE—EXPERT TESTIMONY NOT ADMISSIBLE ON QUESTION OF SIGNATURE BY MARK.—A will was signed by a feeble man, 92 years of age, who made a mark as a substitute for his signature. Three witnesses testified that the testator had made the mark; two testifying that the testator had made the mark unassisted, while the third testified that he had aided the testator's feeble hand in making the mark. Plaintiffs contesting the will offered expert testimony to show that this was not the mark of the testator. *Held,* that the court properly excluded the testimony, as a mark is not "writing" within the meaning of New York Laws 1880, Ch. 36, and Laws 1888, Ch. 555, which permit the comparison of writing by experts. *In re Caffrey's Will,* (1916) 161 N. Y. Supp. 277.

The court decided this case upon the authority of *In re Hopkins,* 172 N. Y. 360, 65 N. E. 173, 65 L. R. A. 95, 92 Am. St. Rep. 746, where it was ex-

pressly held that a mark was not writing within the meaning of the above statutes. A close examination of those statutes shows that they only extend the field of expert testimony and do not declare what constitutes writing, so that the court would have decided that a mark is not writing subject to comparison by experts, without the existence of the statute. The cases holding with the instant case go on the theory that these disputed marks have no prevailing characteristic which would enable an expert to speak, with any degree of certainty, as to the identity of the person who made them; hence a comparison is improper. Some of the cases holding to the above theory are *Jackson, ex dem. Van Dusen* v. *Van Dusen,* 5 Johns. 144, 4 Am. Dec. 330; *Jackson* v. *Jackson,* 39 N. Y. 153; *Shinkle* v. *Crock,* 17 Pa. St. 159. Another line of cases go upon the theory that, since the jury must compare the mark to see if it is genuine, the comparison should be made more intelligible by comparisons made by experts. They hold that such comparison is possible; for marks made by hands trembling with old age, or by illiterate persons, have characteristics of their own differing from those made by steady hands and with intelligent design. *State* v. *Tice,* 30 Ore. 457, 48 Pac. 367. On the question of comparison of cross-marks there is also a division of opinion. *Travers* v. *Snyder,* 38 Ill. App. 379, holds that cross-marks can not be distinguished so as to produce dependable evidence unless by some strong proof it is shown that the signer's mark had some peculiar distinguishing characteristic. See also *State* v. *Byrd,* 93 N. C. 624. The case of *Shank* v. *Butsch,* 28 Ind. 19, strongly intimates that cross-marks are writing and subject to the same rule as other signatures.

EVIDENCE—UNAUTHENTICATED BOOKS OF ENTRY.—Plaintiff claims on contracts for sawing lumber for the defendant. Carruth, an employee of plaintiff, kept account of the work done on tally boards at the mill, from which, as well as from oral reports of Carruth, plaintiff made up the book admitted in evidence. Carruth was out of the state and was not produced to authenticate these figures, nor was any attempt made to obtain his deposition; on this ground defendant objected to the admission of the book. *Held,* this book was properly admitted, on grounds of convenience and necessity, and that such admission must be left to the discretion of the trial court. *Squires* v. *O'Connell,* (Vt. 1916) 99 Atl. 268.

The court justified the entry of the book without authentication on grounds of practical convenience. Formerly, when employers, engaged in small industries, had only a few employees, strict rules of authentication may have been quite practicable; but nowadays large concerns employ thousands of men, many of whom are obliged to make individual reports from which the books must finally be made up, and the strict rule would work severe inconvenience. The courts are facing this practical difficulty, and are as above, leaving it to the discretion of the trial court to determine when such authentication may be dispensed with. The reliability of the present systems of bookkeeping as opposed to the old slipshod methods, seems to be another reason for relaxing the rigid rules of authentication. 2 WIGMORE, EVID., §§1521, 1530; *Griffith* v. *Boston & Maine Ry. Co.,* 87 Vt. 278, 89 Atl. 220;